

**New Marlborough Planning Board
Wednesday April 15, 2015**

Attendees:

Vice Chair: Holly Morse

Members: Judy Hattendorf, Charlie Parton

Other attendees: Jan Johnson Betsy Colhoun
Jane Iredale Enid Michelman
Wendy Linscott Ann Sommers
Jane Tant (Secretary)

Call to Order: 7:04 pm

New Business:

Ms. Morse opened the meeting by stating the purpose was to consider a single item – the application for poultry processing by Jan Johnson of Mill River Farm in accordance with the Right to Farm provision of the Town of New Marlborough Protective By-laws. She noted this matter had been approved by the Select Board and forwarded to the Board of Health for appropriate action in accordance with Massachusetts Law.

Ms. Morse noted that she had received a letter from Mr. Mullen, another member of the Planning Board who was unable to attend the meeting. He had requested his letter be read into the record of the meeting. Accordingly she read aloud his letter in entirety. This letter is included as Attachment A to these minutes. (See below.)

Ms. Morse distributed a copy Section 15 the Right to Farm section from New Marlborough Protective By-laws and drew attention of the attendees to the last line of 15.3 which states, "The protections contained in this by-law do not replace any applicable zoning or legal restrictions associated with agricultural operations." She further noted that since the zoning provisions of Protective By-laws of the Town prohibit operation of "slaughterhouses" in the Town, the zoning sections of the By-Laws restrict the Right to Farm provision. Accordingly, it is appropriate for the Planning Board to consider the application of Mill River Farm to conduct "on-farm poultry processing". Ms. Morse further noted that a comprehensive revision of the zoning provisions to the Protective By-laws was defeated in a Town election last year. While this revision deleted the prohibition on operation of "slaughterhouses" in proposed agricultural districts, the defeat of the revision left the prohibition on "slaughterhouses" still in effect.

Ms. Morse then stated she had consulted with Mr. Brian Domina at Berkshire Regional Planning Commission for advice on dealing with the application of Mill River Farm. Mr. Domina had provided Ms. Morse with a copy of Massachusetts General Law (MGL) Chapter 40a Section 3. Ms. Morse distributed copies of this provision to all in attendance.

Mr. Parton read the copy of Chapter 40a Section 3 aloud and called attention to the first sentence of Section 3, "No zoning ordinance or by-law shall regulate or restrict the use of material, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit

for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture . . .”

Mr. Parton noted that processing chickens raise for sale on Mill River Farm would fall under the designation of “commercial agriculture”. He then read two motions he wished to be considered by the Board.

Ms. Morse requested discussion of any motions be postponed and turned the floor over to Ms. Johnson of Mill River Farm. All Board members agreed.

Ms. Johnson provided the Planning Board with the documents she had previously presented to the Select Board on March 30. She noted the tenure of established regulations tends to be oriented toward buildings and the poultry processing method contemplated at Mill River Farm uses farm-owned devices placed in the pens where the poultry is raised. The processing will be limited to poultry raised on Mill River Farm. Additionally, the very strict licensing and inspection requirements levied by the Commonwealth of Massachusetts will be ongoing and prevent any contamination of water or harm from animal waste. All waste will be composted on site with regular recordkeeping, testing and State inspection in place. Massachusetts licensing provisions limit operation to no more than 2500 birds annually.

Ms. Morse then opened the meeting to a period of public comment.

Ms. Colhoun noted that Mill River Farm intends to operate in accordance with all applicable State law and regulations regarding animal processing.

Ms. Iredale complimented the Planning Board on being attentive to requirements for local food produced in a healthy and humane manner and noted that “animal processing” appears to be a more appropriate term than “slaughterhouse”.

Upon the conclusion of the public comment period, Mr. Parton requested and received permission of the Vice Chair to read the second of his previously voiced motions, the first motion having been withdrawn. This motion stated, “Because of the complexity of the changes required by the Protective By-Laws of the Town of New Marlborough and to further evaluate and determine appropriate language for the purpose of compliance with MGL 40A, sect. 3, I move to table such discussion until the first available regular Planning Board meeting after April 29 as determined by the Chairman of the Planning Board.”

This motion was seconded and approved by all Board members.

Ms. Morse stated while waiting for Meeting Minutes to be finalized and approved she would send a note along with a copy of MGL Chapter 40A, Section 3 to the Board of Selectman on the outcome of the meeting.

The meeting was adjourned at 7:35

Attachment A

Email from James Mullen

TO: New Marlborough Planning Board
FROM: Jamie Mullen, Planning Board Member
DATE: April 14, 2015
RE: Bylaw amendment to allow slaughterhouses

My apologies for being unable to attend the special planning board meeting scheduled for Wednesday, April 15, 2015.

In my absence, I would like to have these comments submitted into the official record of the meeting, and to have them read aloud during the meeting and discussed.

I have several concerns about the topic of the special planning board meeting, specifically, the request by the Select Board to have the Planning Board draft a bylaw to permit a slaughterhouse on Mill River Farm at 282 Brewer Hill Road in New Marlborough.

As we all know or should, a bylaw cannot and should be drafted to benefit a single property. Therefore, if a slaughterhouse is to be allowed on Mill River Farm, whether or not by special permit, slaughterhouses must be allowed anywhere in the zoning district.

At this point, since our proposed bylaw revision was rejected by the voters, we have only one zoning district for all of New Marlborough.

This means that if a bylaw amendment is now proposed to allow slaughterhouses, anyone anywhere in the town can apply for a (special) permit to build a slaughterhouse. This action would be careless and reckless resulting in unintended consequences.

As part of our proposed bylaw revision, we established two zoning districts: a village zoning district, and a rural agricultural zoning district. Slaughterhouses were prohibited in the village zoning districts, but allowed in the rural agricultural zoning district only. We excluded slaughterhouses from the village zoning districts because it was our collective understanding slaughterhouses were an inappropriate land use in villages.

Furthermore, it was my understanding, and I believe that of the entire planning board, that when we were discussing a slaughterhouse in the rural agricultural zoning district, we envisioned one central, stand-alone establishment to which local farmers could bring their animals for processing. Meat could be for sale at that establishment, or farmers could take the meat and sell it from their own farms. That is the definition of slaughterhouse in the proposed bylaw revisions. In the absence of zoning districts and bylaw language related to slaughterhouses as we had in the proposed bylaw revision, permitting a slaughterhouse at one farm would require us to permit them at other farms, and I do not think anyone envisioned slaughterhouses on farms throughout the town. And remember, the threshold to be classified as a farm is low.

Our original process of creating and adopting a comprehensive plan and then drafting bylaw revisions was to make policies from those goals coherent and consistent. This was the correct approach. Abandoning it to harvest a component of our proposed bylaw revision and graft it onto an outdated town bylaw is not good planning. And it does not make outdated and inconsistent town bylaws better.

We were recently granted a district local technical assistance grant.(DLTA) Listed under Project Scope, 1.) "review and revise the draft protective bylaws to ensure that they reflect the sentiments of the community while accomplishing the goal of diversity of housing and economic opportunities for the town" and 2.) "conduct public outreach sessions to build support and awareness among the community regarding the proposed bylaw." The anticipated expectation is to review and perhaps "revise [the] proposed protective bylaw." Given these two central features of the grant, and our hope for the outcome, I think we need to look at the slaughterhouse issue more closely, and should, therefore, hold off on any actions before this review and revision process is completed.

In the absence of engaging in this kind of discussion and debate, if our planning board brings a slaughterhouse bylaw for a vote to the town meeting now, voters will realize that while we may be trying to solve a hardship created by another Board for Mill River Farm, we are creating a much larger problem and with it unforeseen and unintended consequences for the entire town, and they are not going to be happy with us, yet again.

While we all want to help a resident overcome this hardship created by another board, which I would remind is not the Planning Boards charge, as elected planners for the town we have to consider the larger picture, which includes the interests of all citizens.

Needless to say, this is an important issue that should be discussed with the entire planning board in attendance. In the past as a courtesy, we as a Board have consistently given deference to making important decisions when all members were not present I hope the three members at the April 15, 2015 special planning board meeting will choose not to take any action on the issue until the next regularly scheduled meeting when all planning board members are present.

Respectfully submitted,

Thank you, Jamie Mullen